

Special Challenges on Federal Lands

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Outline

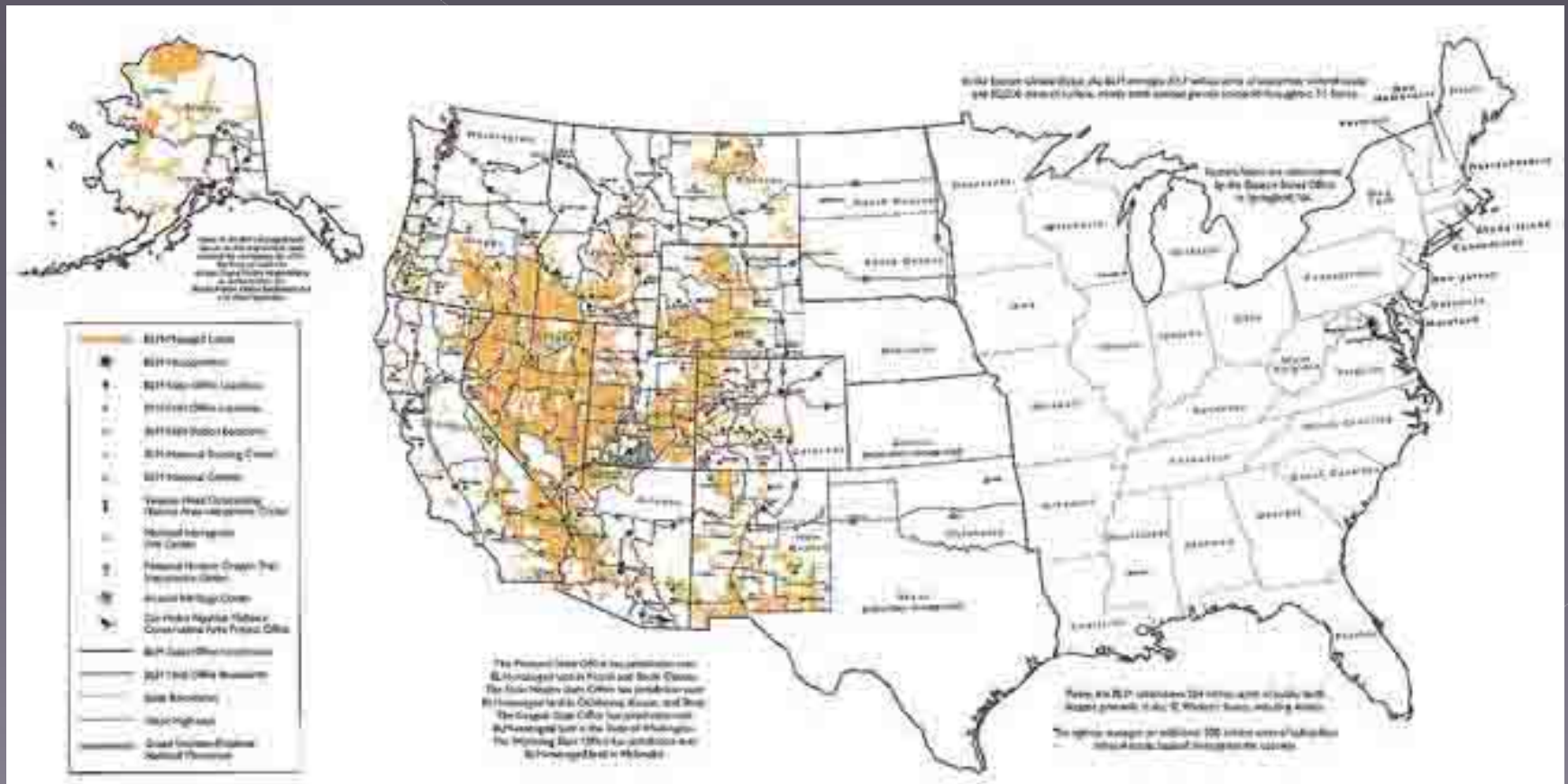
- Chapter 1 – Who is BLM?
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Who is BLM?

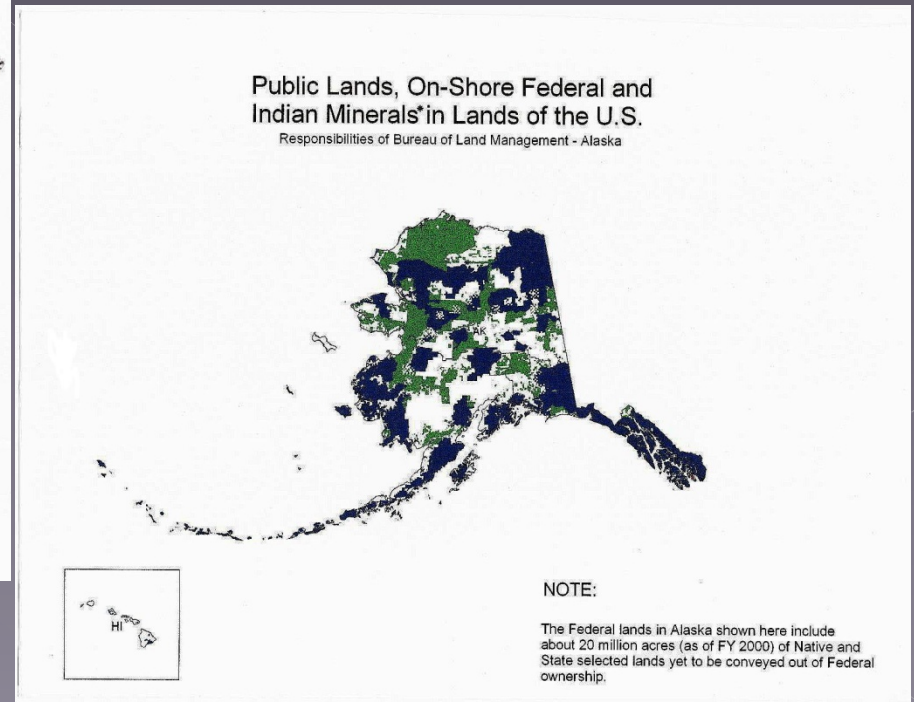
Chapter 1

BLM Managed Surface Estate

256 million acres



58 Million acres split estate

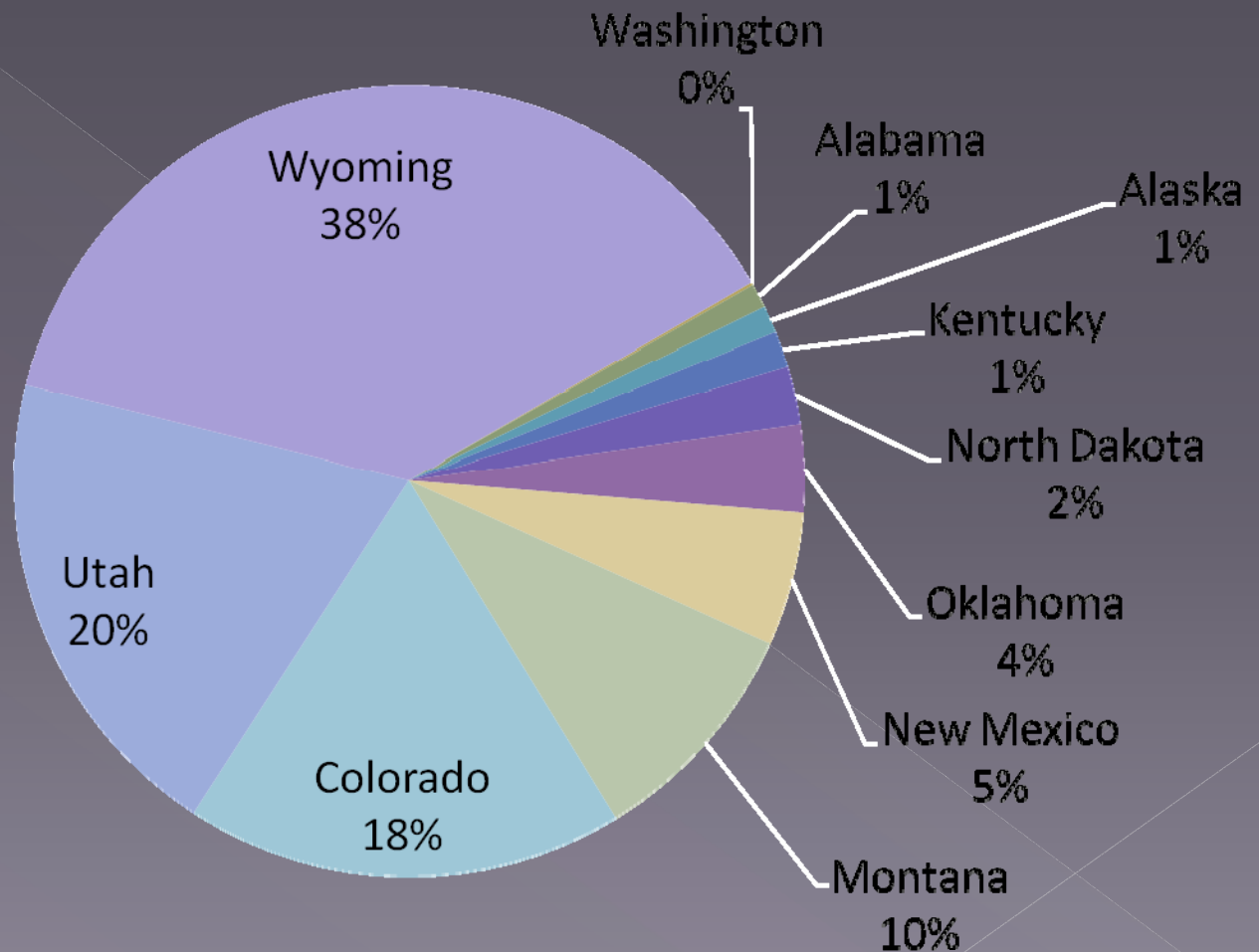


Federal Coal Leasing FY2007

http://www.blm.gov/public_land_statistics/index.htm

State	Leases	Acres
Alabama	4	4,617
Alaska	2	5,148
Colorado	56	83,361
Kentucky	8	6,903
Montana	29	44,181
New Mexico	11	25,432
North Dakota	15	11,062
Oklahoma	9	16,664
Utah	75	92,075
Washington	2	521
Wyoming	87	175,980
Total	298	465,944

Distribution of Federal Coal Leases by Acreage



Additional Considerations

- Split estate lands
- Multiple entities may own minerals within the mine area
 - > “First in time, first in right”
 - > Interests of other governmental agencies
 - > Interests of other mineral lessees
 - > Authority limited by the Mineral Leasing Act, as amended

Amoco v Southern Ute

Chapter 2

Amoco v Southern Ute

- (Citation) (June 7, 1999)
- On Coal Lands Act lands, the US reserved only the coal estate.
- Coal bed methane in these lands is owned privately.
- US has no authority to authorize or require coal bed methane capture by a Federal coal lessee on this type of land.
- This decision does not impact BLM's regulation of lands owned by the US in fee simple.

The Powder River Basin (PRB) Policy

Chapter 3

Powder River Basin (PRB) Policy Summary

- Instruction Memorandum 2006-153
http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2006/im_2006-153_.html
- Oil & gas leasing generally predates coal leasing
- Surface mining potentially draining the methane resource
- Applies only in the PBR when the Federal gas estate overlies the Federal coal estate
- Royalty incentive to produce methane within a conflict administration zone ahead of mine development
- In exchange for reduced royalty, the gas lessee will agree to abandon methane development as mine development approaches a methane well

The San Juan Basin

Chapter 4

San Juan Basin

- ◉ Similar to the PRB, older federal oil and gas leases predate federal coal leases
- ◉ Surface mining has exhausted recoverable reserves and mining is progressing underground
- ◉ Coal and oil & gas lessees negotiate
- ◉ Coal lessee concern about pre-production of methane ahead of mining
- ◉ Royalty reduction solution not implemented
- ◉ Recovery systems in place with marginal economics

The Vessels IBLA Decision

Chapter 5

Vessels IBLA Decision

- Vessels Coal Gas, Inc. 175 IBLA 8
- Aberdeen Coal Mine – Mixed coal and gas ownership, coal production moving from non-federal oil & gas to federal oil & gas lands
- There are no existing Federal oil & gas leases above the mine
- Competitive Federal oil & gas lease proposed for methane collection and sale of methane over the federal coal lease
- Unsuccessful bidder (Vessels) appeals, the oil & gas lease was heavily stipulated for the protection of the health and safety of underground miners such that the oil & gas really wasn't an oil & gas lease any longer.

Vessels IBLA Decision

- IBLA concludes that “gob gas”, i.e., gas liberated during coal development, is not an oil and gas deposit subject to leasing under the Mineral Leasing Act.
- BLM is investigating other means for authorizing capture of methane liberated by coal mining.

What's Next?

Chapter 6

In general:

- BLM regulatory authority is limited to lands where the US owns both the coal and the gas estates
- BLM must consider any pre-existing and conflicting lease rights
- Under the Vessels decision, BLM may only authorize the coal lessee to capture methane released as part of coal mining

Gas rights predate coal rights

- Policy will continue consistent with the current PRB co-development policy
- Royalty incentive to produce methane ahead of coal severance
- To receive the royalty incentive, the gas lessee must agree to abandon the methane production in advance of mining

Coal rights predate gas rights

- ◉ Bilateral agreement between BLM and the coal lessee to amend the coal lease
- ◉ To authorize capture of methane that otherwise would be vented as required by MSHA
- ◉ Coal operator shall capture methane if
 - > Economically feasible, &
 - > Does not jeopardize the safety and health of miners
- ◉ All applicable laws and regulations will apply

Coal rights predate gas rights (cont.)

- West Elk Mine in Colorado will be the first case
- BLM may rely on the Mineral Leasing Act to authorize coal lessees to capture methane vented as required by the Mine Safety & Health Administration (MSHA).